IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, CIVIL JURISDICTION

FIRST APPEAL NO.201 OF 2001
WITH
CIVIL APPLICATION NO.9514 OF 1997

The State of Maharashtra.)..APPELLANT

Versus

Shri Pandurang Undir Mhatre..)..RESPONDENT

Ms.K.K.Tated, A.G.P.for the Appellant
Mr. U.S. Upadhya with Mr. S.G. Surana, for the Respondent

CORAM: F.I. REBELLO & ANOOP V.MOHTA, JJ.
DATE : 26th August, 2004

P.C.:

1. Appeal along with Civil Application are being disposed of by this common order.

2. Notification under Section 4 was published on 3rd February, 1970. The award in respect of Survey No.792/2, 608/4, 595/6 and 513/1A + AB/9 was made on 13th March, 1985. Award in respect of Survey Nos.716/2 and 597/3 was made on 15th June, 1981 and award in respect of Survey Nos.530/0, 550/1, 556/1 and 556/5 was made on 30th March, 1976.

3. The possession of the land Survey No.792/2, 608/4, 595/6 and 513/1A + AB/9 was taken on 17th April, 1985. The possession of the land Survey Nos.716/2 and 597/3 was taken on 126th June, 1981 and possession of the land Survey Nos.530/0, 550/1, 556/1 and 556/5 was taken on 30th March, 1976.

4. The Pune Mumbai High from the land is situated at a distance of 500 to 750 meters.

5. Considering the judgment passed in First Appeal No.757 of 2003 with Civil Application No.514 of 2003 and First Appeal No.1782 of 2002 along with Civil Application NO.1078 of 2004 the market value of the land is fixed at Rs.23/- per sq. meter. Consequently, they are entitled to all consequential benefits.

6. Considering that the awards under Section 11 were on 15th June, 1981 and 30th June, 1976 the claimants would not be entitled to compensation under Section 23(1)(A) of the Act. However, they will be entitled to compensation under Section 23(1)(A) in so far as the award dated 13th Marc, 1985.

7. In the light of that the order of the Reference Court is modified accordingly with further modification that the amount payable under Section 23(1)(A) shall be paid in terms of the Act and not as directed by the Reference Court.

8. Appeal along with Civil Application disposed of accordingly.

9. If the Appellant State has deposited the amount and the amount has been withdrawn on furnishing bank guarantee the claimants are bound to make restitution in respect of the excess amount received by them from the date they received the amount from the Reference Court to the date of payment. They shall also pay interest quantified at 6% per annum from the date of withdrawal till the date of payment.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA, J)